

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 6016

BILL NUMBER: HB 1104

NOTE PREPARED: Oct 22, 2004

BILL AMENDED:

SUBJECT: Religious Freedom Restoration Act.

FIRST AUTHOR: Rep. Noe

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. It allows the executive branch of state government or a political subdivision to substantially burden a person's exercise of religion only if the governmental entity can demonstrate the application of the burden is: (1) essential to further a compelling governmental interest; and (2) the least restrictive means of imposing the burden.
- B. It allows a person to assert as a claim or defense that a governmental entity has burdened the exercise of religion.
- C. It allows reasonable costs and attorney's fees to a person who prevails in asserting the claim or defense.
- D. It allows a court, upon finding that a person filed a frivolous or fraudulent claim or defense, to enjoin the person from filing further claims or defenses.

Effective Date: July 1, 2005.

Explanation of State Expenditures: This bill could affect the Office of the Attorney General and other state agencies if these affected agencies need to spend time and resources defending an alleged burdening of the exercise of religion. If the state is found through a proceeding to have burdened the exercise of religion, the claimant may be paid monetary damages, reasonable costs, and attorney fees.

Background Information: The Office of the Attorney General reports the amount of damages paid as a result of all tort claims submitted and tort claim lawsuits filed against the state and by plaintiffs in tort and civil rights

litigation between CY 2000 and CY 2004 as follows:

FY	2000	2001	2002	2003	2004
Damages Paid	\$8,198,937	\$6,611,210	\$3,312,183	\$5,573,483	\$4,735,016

The amount paid includes tort claims paid at the time of claim submission, settlements upon the filing of lawsuits, and settlements paid as a result of a court order. It also includes cases in both federal and state court.

Explanation of State Revenues: *Court Fee Revenue* This bill may increase the filings of civil actions. The filing fee for civil actions is \$100. Of this fee, 70%, or \$70, is deposited in the state General Fund if the case is filed in a trial court. If a case is filed in a city or town court (providing that the court has jurisdiction), the state General Fund receives 55% of the \$100 filing fee.

There were 28,346 civil plenary cases filed in 2003 in courts of record statewide. Civil plenary cases are defined as those founded in contract, actions dealing with real and personal property, as well as actions seeking equitable or injunctive relief.

Explanation of Local Expenditures: This bill could have an administrative impact on the caseloads of trial or city and town courts if additional civil actions are filed. The operating expenses of the trial courts are paid by the county general fund. The expenses of the city and town courts are paid by the general fund of the city or town in which the court is located.

Explanation of Local Revenues: *Court Fee Revenue:* If a case is filed in a trial court, the county general fund receives 27%, or \$27, of the \$100 filing fee. The 3%, or \$3, is deposited in the general fund of the cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a circuit, superior, county, or municipal court located in the county. If the case is filed in a city or town court (providing the court has jurisdiction), the county general fund receives 20% while the city or town general fund receives 25%.

State Agencies Affected: Attorney General's Office.

Local Agencies Affected: Courts of record and some city and town courts.

Information Sources: *2003 Indiana Judicial Report*, Vol. I, p.71; Jennifer Thuma, Legislative Counsel, Attorney General's Office, 233-6143; L. Cheryl Runyon, "Religious Land Use – State and Federal Legislation", *NCSL Legisbrief*, March 2001

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